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**SENATE BILL 600**

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

**INTRODUCED BY**

**Richard C. Martinez**

**AN ACT**

**RELATING TO CORRECTIONS; ALLOWING ONLY PRISONERS CONVICTED OF  
NONVIOLENT OFFENSES TO EARN MERITORIOUS DEDUCTIONS FOLLOWING  
PAROLE REVOCATION FOR REASONS OTHER THAN A NEW FELONY OFFENSE  
OR ABSCONDING FROM PAROLE; PROVIDING A MAXIMUM OF THIRTY DAYS  
EARNED MERITORIOUS DEDUCTIONS TO PRISONERS CONVICTED OF  
NONVIOLENT OFFENSES FOLLOWING PAROLE REVOCATION.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 33-2-34 NMSA 1978 (being Laws 1999,  
Chapter 238, Section 1, as amended) is amended to read:**

**"33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS  
DEDUCTIONS. --**

**A. To earn meritorious deductions, a prisoner  
confined in a correctional facility designated by the  
corrections department must be an active participant in**

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1 programs recommended for the prisoner by the classification  
2 committee and approved by the warden. Meritorious deductions  
3 shall not exceed the following amounts:

4 (1) for a prisoner confined for committing a  
5 serious violent offense, up to a maximum of four days per month  
6 of time served;

7 (2) for a prisoner confined for committing a  
8 nonviolent offense, up to a maximum of thirty days per month of  
9 time served;

10 (3) for a prisoner confined following  
11 revocation of parole for the alleged commission of a new felony  
12 offense or for absconding from parole, up to a maximum of four  
13 days per month of time served during the parole term following  
14 revocation; and

15 (4) for a prisoner convicted of a nonviolent  
16 offense who is confined following revocation of parole for a  
17 reason other than the alleged commission of a new felony  
18 offense or absconding from parole, up to a maximum of [eight]  
19 thirty days per month of time served during the parole term  
20 following revocation.

21 B. A prisoner may earn meritorious deductions upon  
22 recommendation by the classification committee, based upon the  
23 prisoner's active participation in approved programs and the  
24 quality of the prisoner's participation in those approved  
25 programs. A prisoner may not earn meritorious deductions

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1 unless the recommendation of the classification committee is  
2 approved by the warden.

3 C. If a prisoner's active participation in approved  
4 programs is interrupted by a lockdown at a correctional  
5 facility, ~~[he]~~ the prisoner may continue to be awarded  
6 meritorious deductions at the rate ~~[he]~~ the prisoner was  
7 earning meritorious deductions prior to the lockdown, unless  
8 the warden determines that the prisoner's conduct contributed  
9 to the initiation or continuance of the lockdown.

10 D. A prisoner confined in a correctional facility  
11 designated by the corrections department is eligible for lump-  
12 sum meritorious deductions as follows:

13 (1) for successfully completing an approved  
14 vocational, substance abuse or mental health program, one  
15 month; except when the prisoner has a demonstrable physical,  
16 mental health or developmental disability that prevents the  
17 prisoner from successfully earning a general education diploma,  
18 in which case, the prisoner shall be awarded three months;

19 (2) for earning a general education diploma,  
20 three months;

21 (3) for earning an associate's degree, four  
22 months;

23 (4) for earning a bachelor's degree, five  
24 months;

25 (5) for earning a graduate qualification, five

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1 months; and

2 (6) for engaging in a heroic act of saving  
3 life or property, engaging in extraordinary conduct for the  
4 benefit of the state or the public that is at great expense,  
5 risk or effort on behalf of the ~~[inmate]~~ prisoner, or engaging  
6 in extraordinary conduct far in excess of normal program  
7 assignments that demonstrates the prisoner's commitment to  
8 ~~[rehabilitate himself]~~ rehabilitation. The classification  
9 committee and the warden may recommend the number of days to be  
10 awarded in each case based upon the particular merits, but any  
11 award shall be determined by the director of the adult  
12 institutions division of the corrections department.

13 E. Lump-sum meritorious deductions, provided in  
14 Paragraphs (1) through (6) of Subsection D of this section, may  
15 be awarded in addition to the meritorious deductions provided  
16 in Subsections A and B of this section. Lump-sum meritorious  
17 deductions shall not exceed one year per award and shall not  
18 exceed a total of one year for all lump-sum meritorious  
19 deductions awarded in any consecutive twelve-month period.

20 F. A prisoner is not eligible to earn meritorious  
21 deductions if the prisoner:

22 (1) disobeys an order to perform labor,  
23 pursuant to Section 33-8-4 NMSA 1978;

24 (2) is in disciplinary segregation;

25 (3) is within the first sixty days of receipt

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1 by the corrections department; or

2 (4) is not an active participant in programs  
3 recommended and approved for [~~him~~] the prisoner by the  
4 classification committee.

5 G. The provisions of this section shall not be  
6 interpreted as providing eligibility to earn meritorious  
7 deductions from a sentence of life imprisonment or a sentence  
8 of death.

9 H. The corrections department shall promulgate  
10 rules to implement the provisions of this section, and the  
11 rules shall be matters of public record. A concise summary of  
12 the rules shall be provided to each prisoner, and each prisoner  
13 shall receive a quarterly statement of the meritorious  
14 deductions earned.

15 I. A New Mexico prisoner confined in a federal or  
16 out-of-state correctional facility is eligible to earn  
17 meritorious deductions for active participation in programs on  
18 the basis of the prisoner's conduct and program reports  
19 furnished by that facility to the corrections department. All  
20 decisions regarding the award and forfeiture of meritorious  
21 deductions at such facility are subject to final approval by  
22 the director of the adult institutions division of the  
23 corrections department or the director's designee.

24 J. In order to be eligible for meritorious  
25 deductions, a prisoner confined in a federal or out-of-state

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1 correctional facility designated by the corrections department  
2 must actively participate in programs that are available. If a  
3 federal or out-of-state correctional facility does not have  
4 programs available for a prisoner, the prisoner may be awarded  
5 meritorious deductions at the rate the prisoner could have  
6 earned meritorious deductions if the prisoner had actively  
7 participated in programs.

8 K. A prisoner confined in a correctional facility  
9 in New Mexico that is operated by a private company, pursuant  
10 to a contract with the corrections department, is eligible to  
11 earn meritorious deductions in the same manner as a prisoner  
12 confined in state-run correctional facilities. All decisions  
13 regarding the award or forfeiture of meritorious deductions at  
14 such facilities are subject to final approval by the director  
15 of the adult institutions division of the corrections  
16 department or the director's designee.

17 L. As used in this section:

18 (1) "active participant" means a prisoner who  
19 has begun, and is regularly engaged in, approved programs;

20 (2) "program" means work, vocational,  
21 educational, substance abuse and mental health programs,  
22 approved by the classification committee, that contribute to a  
23 prisoner's self-betterment through the development of personal  
24 and occupational skills. "Program" does not include  
25 recreational activities;

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1 (3) "nonviolent offense" means any offense  
2 other than a serious violent offense; and

3 (4) "serious violent offense" means:

4 (a) second degree murder, as provided in  
5 Section 30-2-1 NMSA 1978;

6 (b) voluntary manslaughter, as provided  
7 in Section 30-2-3 NMSA 1978;

8 (c) third degree aggravated battery, as  
9 provided in Section 30-3-5 NMSA 1978;

10 (d) first degree kidnapping, as provided  
11 in Section 30-4-1 NMSA 1978;

12 (e) first and second degree criminal  
13 sexual penetration, as provided in Section 30-9-11 NMSA 1978;

14 (f) second and third degree criminal  
15 sexual contact of a minor, as provided in Section 30-9-13 NMSA  
16 1978;

17 (g) first and second degree robbery, as  
18 provided in Section 30-16-2 NMSA 1978;

19 (h) second degree aggravated arson, as  
20 provided in Section 30-17-6 NMSA 1978;

21 (i) shooting at a dwelling or occupied  
22 building, as provided in Section 30-3-8 NMSA 1978;

23 (j) shooting at or from a motor vehicle,  
24 as provided in Section 30-3-8 NMSA 1978;

25 (k) aggravated battery upon a peace

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1 officer, as provided in Section 30-22-25 NMSA 1978;

2 (l) assault with intent to commit a  
3 violent felony upon a peace officer, as provided in Section  
4 30-22-23 NMSA 1978;

5 (m) aggravated assault upon a peace  
6 officer, as provided in Section 30-22-22 NMSA 1978; and

7 (n) any of the following offenses, when  
8 the nature of the offense and the resulting harm are such that  
9 the court judges the crime to be a serious violent offense for  
10 the purpose of this section: 1) involuntary manslaughter, as  
11 provided in Section 30-2-3 NMSA 1978; 2) fourth degree  
12 aggravated assault, as provided in Section 30-3-2 NMSA 1978; 3)  
13 third degree assault with intent to commit a violent felony, as  
14 provided in Section 30-3-3 NMSA 1978; 4) third and fourth  
15 degree aggravated stalking, as provided in Section 30-3A-3.1  
16 NMSA 1978; 5) second degree kidnapping, as provided in Section  
17 30-4-1 NMSA 1978; 6) second degree abandonment of a child, as  
18 provided in Section 30-6-1 NMSA 1978; 7) first, second and  
19 third degree abuse of a child, as provided in Section 30-6-1  
20 NMSA 1978; 8) third degree dangerous use of explosives, as  
21 provided in Section 30-7-5 NMSA 1978; 9) third and fourth  
22 degree criminal sexual penetration, as provided in Section  
23 30-9-11 NMSA 1978; 10) fourth degree criminal sexual contact of  
24 a minor, as provided in Section 30-9-13 NMSA 1978; 11) third  
25 degree robbery, as provided in Section 30-16-2 NMSA 1978; 12)

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1 third degree homicide by vehicle or great bodily injury by  
2 vehicle, as provided in Section 66-8-101 NMSA 1978; and 13)  
3 battery upon a peace officer, as provided in Section 30-22-24  
4 NMSA 1978.

5 M Except for sex offenders, as provided in Section  
6 31-21-10.1 NMSA 1978, an offender sentenced to confinement in a  
7 correctional facility designated by the corrections department  
8 who has been released from confinement and who is serving a  
9 parole term may be awarded earned meritorious deductions of up  
10 to thirty days per month upon recommendation of the parole  
11 officer supervising the offender, with the final approval of  
12 the adult parole board. The offender must be in compliance  
13 with all the conditions of the offender's parole to be eligible  
14 for earned meritorious deductions. The adult parole board may  
15 remove earned meritorious deductions previously awarded if the  
16 offender later fails to comply with the conditions of the  
17 offender's parole. The corrections department and the adult  
18 parole board shall promulgate rules to implement the provisions  
19 of this subsection. "

20 Section 2. EFFECTIVE DATE. --The effective date of the  
21 provisions of this act is July 1, 2005.

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